



## Let's Get Acquainted Learn About the Education Team



**Vicky Murillo**  
 Deputy Director of Education  
 Years of Service: 11.  
 One unique thing about her:  
 She just survived having four teenagers under one roof!



**Bobbie Pierce**  
 Administrative Assistant  
 Years of Service: 20.  
 One unique thing about her:  
 She treats all people with respect, the way she likes to also be treated!



**Joe Amy**  
 Administrative Assistant  
 Years of Service: 10.  
 One unique thing about him:  
 He is an organic gardener!

### The Game of "Life" at ADRE By Dick Simmonds

If you have ever played the board game called "Life," you know that the purpose is to make choices so you can earn more money, accumulate things, and not end up at the "Poor Farm." Sometimes here at ADRE we do all the right things, earning more money for the State General Fund, but never seeing any of it. Therefore, we have landed at the Poor Farm.

We are a uniquely funded agency known as a "95/110" agency. This means, according to §A.R.S. 32-2103, that the Commissioner sets fees so that the revenue the Department generates comes

to within 95% to 110% of its appropriation. This is not easy to do since our fees are established either in Statute or by Rule and take a long time to change. Also, for the past two years, legislators have exempted us from this requirement so as to not lose income to the State General Fund. This process seems to be the reverse of what it *should* be – the appropriation based on the amount of revenue generated – but this being said, budget reductions have still occurred.

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### Our Mission

**The mission of the Department is to protect the public interest through licensure and regulation of the real estate profession in the State of Arizona.**

# Legislative Wrap-Up

By Todd Madeksza

On April 16, 2004 Governor Napolitano signed into law Senate Bill 1140 – the most comprehensive real estate bill to emerge from the Department of Real Estate in recent memory. SB 1140 was one of three pieces of legislation that emerged from the Department's stakeholders' meetings during the summer and fall of 2003. The other two pieces of legislation (House Bills 2553 and 2556) passed each vote held, but were then held by the Chairman of the House Appropriations Committee. Despite the Department's best efforts, these two bills never reached a floor vote in the House.

Despite these setbacks, SB 1140 passed both houses of the Legislature with only two votes against it during the entire process. There were no votes against it during the final processing in either house. Commissioner Richardson credits the tremendous amount of success that SB 1140 received to the outstanding stakeholders that worked with the Department and their willingness to explain and argue for the changes outlined in the bill.

As enacted, SB 1140 updates multiple areas of real estate statute, including cemetery laws, timeshare laws, property management laws, and the establishment of a voluntary "Business Brokerage Designation" for Real Estate Licensees. Below are additional provisions of SB 1140. Many thanks to those stakeholders who helped get this bill passed. Ultimately, it will help advance the real estate field in Arizona.

## Provisions of Senate Bill 1140:

### Real Estate Brokers

- § Clarifies that a designated broker acting on behalf of an employing real estate business may become a Professional Corporation or a Professional Limited Liability Company.
- § Outlines the requirements for proper record-keeping of earnest monies.
- § Authorizes the Commissioner to take disciplinary action against a licensee who fails to cooperate in an investigation.
- § Stipulates that real estate brokerage services offered for compensation in Arizona through an Internet website are considered activities requiring a valid real estate broker's license.

### Business Brokers

- § Establishes guidelines for first-time renewals, for

completion of 12 hours of instruction and passage of test on each completed course, in addition to the 12 hours prescribed for all license renewals. Subsequent renewals do not require a test.

- § Establishes a voluntary Business Brokerage Designation for licensees, with guidelines for 24 additional hours of business brokerage instruction and an examination on business brokering.

### Out-of-State Brokers

- § Establishes requirements for a licensed Arizona broker and an out-of-state broker to cooperatively conduct business activities and requires them to sign a cooperation agreement before conducting such activities.
- § Assigns responsibility and liability to the licensed Arizona broker for the acts of an out-of-state broker.
- § Subjects all monetary transactions to Arizona's statutory requirements.
- § Requires negotiations taking place in Arizona or with people owning property in Arizona to be conducted by the licensed Arizona broker.
- § Requires the cooperation agreement to list real estate activities to be conducted by the out-of-state broker, including a compliance statement and a responsibility statement.
- § Prohibits an out-of-state broker not licensed in Arizona from listing, marketing or advertising in the state any real property located within Arizona.
- § Prohibits signage in this state by an out-of-state broker.
- § Prohibits an out-of-state broker from using a cooperation agreement as authority to sell, lease, rent, exchange or attempt to sell, lease, rent or exchange real property to a resident of Arizona.

### Property Management

- § Clarifies that the §32-2121 (A)(6) exemption for property managers only applies to an on-site manager.
- § Requires property management firms to account for monies that are collected, including any

*(Continued on page 6)*



# Commissioner's Corner

*By Commissioner Elaine Richardson*

## WAS BEING A SENATOR MORE FUN?

People often ask me if I miss being a Senator. I usually reply that I enjoyed my ten years in the Arizona Legislature, felt good about my work there, and would not want to go back. Friends look at me and say, "Don't you miss all the excitement and politics and prestige as compared to "just" running an agency?" I usually hide my smile, particularly at the "prestige" part.

However, thinking back, I realize that being a Senator was only one leg of my journey before completing a full circle. I am very fortunate to have experienced this "circle" as I feel it gives me a broad perspective on all phases of our industry.

First, as a small business owner of a laundromat and dry cleaners, I experienced the fun and trials of meeting expenses, complaining when CAM (common area maintenance) charges kept increasing, dealing with sometimes inane government regulations that didn't seem to make any sense, making sure no customer left my store without being satisfied, keeping 50 machines in good repair, working long hours and with lots of hard work, and making sure that the bottom line never turned red.

The next phase of my circle was as a real estate agent and then a broker. I handled leasing, commercial and business sales, and property management. I loved what I did and nothing matched that good feeling of walking out of escrow with a nice commission check in my hand. Of course, by the time I reached my car, I was already thinking about (and worried about) my next sale. Since I was fortunate enough to own my own small company, meeting rent and salaries, keeping equipment current and all the related expenses that go into running a small business were always paramount on my mind. I learned what it meant to not only sell, but to make sure I never ran afoul of that "pesky" Real Estate Department. In this circle, I saw a completely different view of competition and the business world.

Nothing can describe my ten years in the

Arizona Legislature. Campaigns can be grueling and winning can be exotic. I made a decision to be issue-oriented. I personally feel that this is the only way one can survive and be effective. I was a Democrat in a typically Republican industry and legislature. In order to accomplish my goals, which were primarily to work on women's issues and measures that would make it less onerous to own a small business, I knew I needed 31 votes in the House of Representatives and 16 votes in the Senate. That was a different bottom line from that of owning a business, but it was the bottom line. Again I was fortunate enough to have business and life experiences to bring with me. I had never worked so hard or carried such a burden. I felt every issue I worked on could potentially affect people's daily lives—much different from when I ran my own businesses where the bottom line did not affect everyone in our state. I left feeling good about my work, felt I made significant contributions and also traveled pretty extensively – but that's for another story!

So completes the full circle from private citizen, to small business owner, to legislator and now regulator. I feel each phase of experience helps me to see a very broad picture. We have challenges to meet every day and even though we bring in a good "bottom line," we don't get to keep it to run our shop. Regulatory reform plagues us and often hinders our ability to complete our mission – which is to protect the public interest. It is challenging to get 90 legislators to believe that stakeholders which include industry, the public and agencies are in the trenches every day and really **do** know what their own needs are. However, again I feel fortunate that my past experiences allow me the luxury of being able to see each side of every issue in a clear and unbiased light. The most important thing it has helped me see is that there is always much to learn and the best place to learn it is from you – the folks who deal with new issues and new challenges every day. That is the only way to expand our circle – and that is the bottom line! 📍

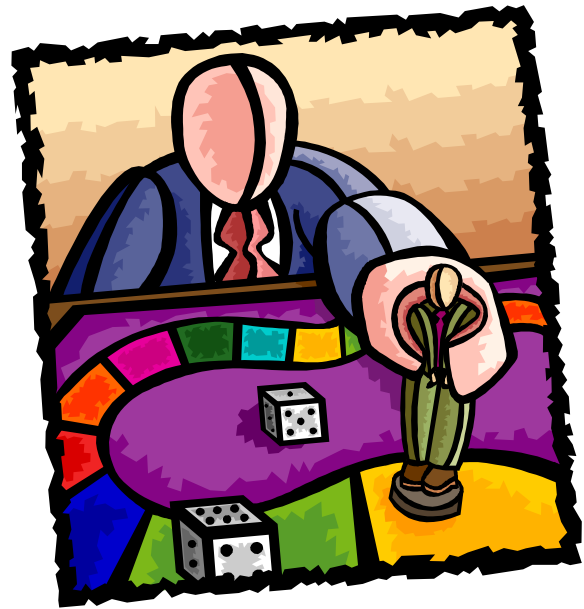
## The Game of "Life" at ADRE (cont'd)...

For example, for fiscal year 2003, the Department's appropriation was reduced from its original amount of almost \$3.4 million to \$3.1 million. The Department's budget for fiscal year 2004 is \$100 less, and while on the surface appears to be a minimal reduction compared to the previous year's drastic reduction, in reality, approximately \$70,000 of previously covered charges such as retirement, health insurance and rent were unfunded and suddenly needed to be absorbed by the budget.

In staffing, even though the legislature has approved that the agency have 65 positions, budget reductions have resulted in the agency only being able to fund 57 positions. Despite this, the real estate industry continues to grow. Record numbers of people are taking the real estate examination and the number of individual licensees has grown from 53,478 in July 2002 to 61,085 in January 2004. This is an increase of approximately 14.2%. The total does not include another 8,151 business entities also holding licenses. During the first half of fiscal year 2004, the subdivisions staff processed 1,110 applications – an increase of 23% over the first six months of fiscal year 2003. With all of this activity, investigation cases have also increased and a total of 1,059 new complaints were received for fiscal year 2003. All these figures continue to increase for fiscal year 2004.

In order to keep up, we have cut every activity we can think of that is not either necessary or important to the licensees. We have even had one suggestion recently to stop producing ADRE's *Bulletin*. However, we feel that this is an important tool to keep the industry informed about what is going on at the Department. It also includes the published list of Administrative Actions. Unfortunately we are left with nowhere else to cut. We now have employees performing the work equivalent to 1¼ to 1½ people just so we can continue to get the work processed in a timely manner. We also had to eliminate overtime hours because of a lack of funds.

If we had adequate funding, what choices would we make? We certainly could use additional employees in Licensing and some in Education. We are making progress in Education in spite of the budget crunch. The recent addition of an education auditor/monitor will share some inspection duties with the Subdivisions division. Could we use another education auditor? Yes! We also



need another subdivisions representative and certainly some more investigators.

On the positive side, we have just signed a contract to design and implement a program for online licensing renewals, of which we will be reporting more about in the near future. This should certainly relieve some of the pressure in Licensing. Will this technology allow us to reduce licensing staff? Time will tell, but if the number of licensees continues at the current level of expansion, the online system may only help us avoid the increase in future staff numbers. Nearly every day, the Commissioner or a staff member comes to me and says "I think it would really be great if we could do X, Y, or Z for the staff or for our licensees." Right now I have to respond that it sounds like a great idea but, "Sorry, we do not have the funds!" Wouldn't it be nice to say, "OK, let's take a look at this and see if it is workable and beneficial to the Department, the licensees and in fulfilling our mission, which is to protect the public interest!"

As you can tell by this article, the game of "Life" at ADRE has been frustrating and we have ended up at the "Poor Farm" instead of the "Mansion." We do have an excellent staff and they still continue to pull together to get the job done. We give thanks to each one of them for their continued effort in spite of tough times.

*Editor's Note: Mr. Simmonds is Business Services Director and a Special Assistant to the Commissioner. He has been with ADRE for 10 years. ☐*

## **A NOTE ABOUT GUEST COLUMN ARTICLES...**

**GUEST COLUMN ARTICLES DO NOT NECESSARILY REFLECT THE OPINIONS, POLICIES OR INTERPRETATIONS OF LAW BY ADRE. ADRE ASSUMES NO RESPONSIBILITY FOR THE CONTENT IN SUCH GUEST ARTICLES. THEY ARE MEANT TO INFORM THE PUBLIC AND PROVIDE VARIETY TO ADRE'S BULLETIN. ALL ARTICLES ARE EDITED FOR SPACE LIMITATIONS.**

## **Working Together is Critical**

*By Guest Columnist RL Brown*

As I hope you know from your own personal successes, the Arizona real estate industry is enjoying the very best of times. Both the new home and resale markets are breaking all-time historical records for sales volume in just about every part of the state. March was an all-time record high month in metro Phoenix with 9,361 resale homes closed and 4,194 new homes closed. Home ownership in metro Phoenix is at an all-time high of about 68%, thanks to the relative affordability of housing in our region. The story is similar in Tucson and elsewhere in Arizona. While changes in interest rates and rising prices may take a little bit of the bloom off of this real estate market over the coming months, we are confident that Arizona will continue to maintain its #2 national ranking amongst new home markets over the next several years and that the resale market will remain near record highs.

There are lots of reasons for this strong real estate market, not the least of which is the continuing growth of new populations in the state. Every day new families and singles are moving to Arizona from somewhere else. Many are coming without jobs, seeking a "change" in their environment from the high cost of living and stress of states like California. Many are retirees looking for the "warmth" of the Sun Belt or young folks that will be looking for their first job.

While all of this growth and prosperity is going on, the Arizona Department of Real Estate continues to move toward an enhanced level of service to the public and the real estate community, while struggling to live within its reduced budget levels. The Department is well beyond the "cutting the fat" stage that outsiders often visualize as "typical" government. Commissioner Richardson has resourcefully managed ADRE over her first year as Commissioner, and now needs the

unqualified support of industry to restructure the Department's funding mechanism, so that the fees that are paid to the Department can be used to adequately protect the public interest and to provide a basic level of service to industry stakeholders.

The Arizona Association of Realtors® has stepped up to the plate on this issue as have the Southern Arizona Homebuilders Association and other trade groups, but unfortunately the leadership of the Central Arizona Homebuilders Association has not. Everyone in this industry, in this state needs to implore them to join with us to get this job done.

*Editor's Note: R.L. Brown is the chair of the Real Estate Advisory Board. Mr. Brown was first appointed to the board in 1995 by Governor Fife Symington and then reappointed by Governor Jane Dee Hull in 2001. His current term expires in 2007. Mr. Brown is a principal in the Phoenix housing market research firm of Home Builders Marketing, Inc., and has been active in the housing industry since 1961. ☐*



# What Does the Real Estate Advisory Board Do?

By Carla Randolph

The Real Estate Advisory Board consists of volunteers appointed by the Governor to serve six-year terms. Governor Janet Napolitano just filled vacancies last year by appointing three new members. Currently, RL Brown serves as the Chairperson for the Real Estate Advisory Board.

Arizona statutes describe the Board's duties. For example, the Board may provide the Commissioner with such recommendations as deemed necessary and beneficial to the best interest of the public. The Board may also provide suggestions on specific questions or proposals as deemed necessary, or as requested by the Commissioner. Lastly, the Board must annually report to the Governor in the form of an evaluation of the performance of the Real Estate Commissioner and the Real Estate Department.

Over recent years, the Board has grown from 7

to 9 members. This last year, at the request of Commissioner Richardson, the Board members have become more actively involved with various Department issues. Recently, Advisory Board members agreed to function as communication facilitators for the Department, to help open the lines of communication for members of the public who have questions and concerns.

The Advisory Board meets four times per year. The meetings are open to the public and anyone is welcome to attend. For more information about the Real Estate Advisory Board, please refer to ADRE's web page at [www.re.state.az.us](http://www.re.state.az.us) or contact Carla Randolph at (602) 468-1414, ext. 135.

*Editor's Note: Ms. Randolph is an Executive Assistant to the Commissioner who has served ADRE for 18 years. She has been assigned to help staff the Advisory Board Meetings for several years. ☐*

## Legislative Wrap-Up (cont'd)...

(Continued from page 2)

tenant deposits, and directs each rental agreement to include a clearly stated provision of the disposition of tenant deposits.

### Timeshares

§ Increases the civil penalty assessed on a developer who violates a timeshare law or rule, from \$500 to a range of \$1,000 to \$5,000.

### Cemeteries

- § Defines "private cemetery" as an unlicensed place for burials or interment of human remains that does not occur more than ten times a year and is not available to the public.
- § Requires an audit, by a certified accountant, of financial records and the Irrevocable Trust Fund upon transferring ownership of a cemetery.
- § Authorizes the Real Estate Commissioner to exempt a cemetery from licensing if compliance with statutes is not essential to the public interest or protection of the buyer due to special circumstances of the cemetery.
- § Requires a licensee to produce promotional or advertising materials requested by the Commissioner within ten days of the request, instead of upon request.

- § Requires independent cemetery brokers to obtain and comply with licensed cemetery rules, to properly disclose to a purchaser all fees and time frames connected with the transfer and recording of interment rights, a cemetery property or a deed.
- § Requires all trust funds to be deposited within 30 days after the contract for a cemetery purchase is paid in full.
- § Replaces a \$500 filing fee for a cemetery plan amendment with a fee equal to the greater of \$250 or ½ of the initial filing fee.
- § Establishes procedures for reclaiming cemetery plots abandoned after 50 years, including notification, exceptions, heirs and equivalency.
- § Requires a cemetery to set aside ten percent of plots abandoned within the cemetery for an heir to reclaim a plot after abandonment procedures occur.
- § Subjects proceeds from the sale of a reclaimed lot, grave, niche or crypt to the Endowed-Care Trust Fund requirements for regular sales.

*Editor's Note: Mr. Madeksza is the Director of Education and Licensing and the Legislative Liaison for ADRE. He has been with ADRE for under one year. ☐*

# Radon — It's a Gas!!?

By Curt Leaf

**R**adon is a naturally occurring radioactive gas formed from the radioactive decay of radium and uranium. These elements are found at varying levels in almost all rock and soil. The gas formed is odorless and colorless.

As the gas is formed, it gradually works its way to the surface where it dissipates into the air. If the gas rises under a structure, it will collect there and may enter the building through such openings as cracks or joints in the floor, crawl spaces, underground return air ducts and floor drains. It may even seep through the many tiny pores in hollow concrete bricks. Unless vented to the outside, the gas can collect in basements and in lower levels of the structure.

Most public exposure comes from this accumulation of radon gas in homes, schools and office buildings. The EPA estimates that the national average indoor radon level in homes is about 1.3 pCi/l (Pico curies per liter) of air. Typically, radon levels in buildings in Arizona – if present at all – range from .25 Pico curies per liter of air to 1.5 pCi/l. However, a level of 11,000 pCi/l was once measured in a home near Prescott. The EPA has determined that 4.0 pCi/l is the level above which some type of mitigation action needs to be taken. Nationally, approximately 1 in 15 homes have tested at or above this standard. Overall, Arizona fits within this average.

The average half-life of radon is 3.8 days. As it undergoes radioactive decay, it releases an alpha particle. This particle can be inhaled where it can become imbed in the cellular tissue of the lungs. As it continues to decay, surrounding cells in the lung tissue may be damaged, which can lead to lung cancer. The EPA and the National Academy of Science have determined that radon in indoor air is the second-leading cause of lung cancer. They estimate 15,000 to 22,000 Americans die every year from radon-related lung cancer.

Logically, the greater the concentrations of radon gas in a home, the greater the risk of lung cancer. Radon levels are easy to test for and test kits can be acquired from most hardware or building supply stores. Something as simple as opening the doors or windows when weather permits can help lower simple concentrations of radon levels. Higher concentrations can signal a problem and professional testing and mitigation should be considered. **BUT WHY A SCIENCE LESSON IN THE MIDDLE OF A REAL ESTATE BULLETIN?**

Because the EPA has determined that long-term exposure to radon gas may increase a person's risk of lung cancer and because radon collects in houses, the issue

can become one of "disclosure" for the real estate licensee. If you think this disclosure is not important, consider the following:

1. In 1984, a California Court of Appeals' decision (Easton vs. Strassburger) set a new precedent. Under this precedent, a broker or salesperson is responsible for disclosing not only what they know about the property but also what they should have known after a "reasonably competent and diligent inspection" of the property. This includes the presence of radon.

2. The June 2002 **SELLER ADVISORY**, published by the Arizona Association of Realtors® says in part that: "Sellers are obligated by law to disclose all known material (important) facts about the property to the buyer." Arizona law requires that material facts about the property be disclosed in writing, whether or not the buyer or a real estate agent asks. If the buyer specifically asks about an aspect of the property, the licensee has the duty to disclose the information, regardless of whether or not the licensee considers the information to be material.

To emphasize this, the AAR's "RESIDENTIAL SELLER'S PROPERTY DISCLOSURE STATEMENT (SPDS)", on page 6 under Environmental Information, Question 174 specifically includes "Radon Gas."

3. In January 2004, the FHA revised its home inspection form (HUD 92564-CN) to include information on radon gas testing.

4. The National Association of Realtors® website (www.realtor.org) lists three cases involving radon. In two of the cases, the court canceled the purchase contract because of the presence of radon gas. In the third, the New York Appellate Court ruled that excess "radon was not a 'substantial structural defect,' sufficient to cancel the sales contract." Even though the contract remained valid, someone had to pay a lot of attorney's fees.

Wouldn't it be better for professionals to know up-front if and when they are asked about radon, than to "wing it" and be penalized for "failure to disclose?"

*Editor's Note: Mr. Leaf is an Executive Staff Assistant who has served ADRE for 30 years.*

*Readers may contact the National Radon Information Line at 1-800-SOS-RADON or access the EPA website at [www.epa.gov](http://www.epa.gov), for more information. The Arizona Radiation Regulatory Agency website at [www.rra.state.az.us](http://www.rra.state.az.us) has Arizona-specific information. State Radon Officer John Stewart is available for presentations on radon gas. He may be emailed at: [jstewart@arra.state.az.us](mailto:jstewart@arra.state.az.us). ☐*

## Frequently Asked Questions (FAQ)...

**Question:** Question: Is it legal for a licensee to post "Houses for sale, call XXX-XXXX" signs? Are they similar to "Open House" directional signs?

**Answer:** Any sign that says "house/houses for sale" is not a directional sign – it is an advertisement and must conform to R4-28-502 (E), and clearly and conspicuously display the company name. There is no requirement regarding what phone number is placed on the sign, since that is for the broker to monitor. Directional signs are for directions to an open house; they have an arrow on them pointing the way for people to find the open house. There is no requirement that they display the company name.

**Question:** If I, as a broker, discover that one of my salespeople is involved in an activity that is a violation of the real estate laws or rules and I report them to ADRE, will I be investigated for "improper supervision?"

**Answer:** Part of the job of a supervisor is to report improper activity when it is discovered. If a broker reports a salesperson in their employ as soon as the supervisor discovers the improper activity, then that broker is meeting the requirements of being a good supervisor and will not be investigated. On the other hand, if a broker knows of improper activity and does not report it immediately, then that broker is not meeting the requirements of being a good supervisor and will be investigated.

**Question:** Does a Transaction Coordinator need to be licensed by the Department?

**Answer:** That depends on what the Transaction Coordinator's job functions include. Any person who discusses terms, conditions, or pricing, or who drafts, fills out or completes documents involved in real estate transactions must be licensed. The Transaction Coordinator may deliver paperwork, collect demographic information, confirm and/or set appointments (without discussing issues), track the status of documents/transactions, or unlock a property for a licensee, so the licensee can preview or show a buyer the property (with no discussion of the property by the coordinator).

**Question:** Why do I need a license just to fill out paperwork?

**Answer:** Article XXVI, Section 1 of the Arizona Constitution provides that **licensed** real estate brokers or salespersons may complete such paperwork. Generally, this type of activity is considered "legal" and requires an attorney, but the State Constitution makes an exception for those licensed in real estate. ☐

***Look for an upcoming Bulletin addendum with a directory and summaries of all regulatory rule and substantive policy statements – coming soon!***



# Do you like to write?

Do you have an article idea?\*

If you would like to submit an article to be considered for inclusion in The Bulletin, please send your article to the Editor via email at: [lcarrasco@re.state.az.us](mailto:lcarrasco@re.state.az.us).

Submissions must be in MS Word format and less than 500 words.

\*Submissions of guest writers may not necessarily reflect the opinion of the Department and may be edited due to space limitations.

## Administrative Actions

### COMMISSIONER'S FINAL ORDERS Disciplinary Actions

#### LaMarr Farr; L-F Investment Trust (Mesa)

File No. 99A-016-REL, Order 12/4/2002

After hearing, the Commissioner ordered that LaMarr Farr and L-F Investment Trust cease and desist from offering or selling any lots in violation of Arizona subdivision laws now or in the future; pay \$50,000 to the Pinal County General Fund; pay a civil penalty of \$5,000; pay \$500 to Diversified Water Company; offer purchasers who had not resold their lots purchased from Farr and L-F Investment Trust the right to rescind their purchase contracts; and ordered Farr to attend 6 hours of approved course(s) on subdivision laws. This was based on the findings that they participated in creating a subdivision, acted in concert with others to avoid the subdivision laws, pursued a common promotional plan to market and sell lots within the subdivision, and sold lots

without first notifying the Commissioner and obtaining a public report. In its 11/25/2003 order on Farr's appeal, the court reversed the Commissioner's Order in part, finding that Farr was not *personally* liable for the costs, civil penalty, improving the development to county standards and compliance with subdivision laws, and affirming the Commissioner's Order in all other respects.

#### D. R. Horton, Inc. (Gold Canyon)

File No. 03A-034, Consent Order 3/1/2004

DR Horton's application for public report failed to accurately reference a utility easement, and the developer failed to notify the Commissioner of a change in the subdivision plan, in violation of statutory provisions of A.R.S. 32-2153 (A)(3) and 32-2181(C)(1). Horton is assessed a civil penalty of \$3,000.

### Appealable Agency Actions

## ADRE's 2001 Sunset Audit Successfully Closed

The office of the Auditor General recently completed a 30-month follow-up review of ADRE regarding the implementation status of departmental audit recommendations that were presented in a report released in August of 2001.

In the most recent report dated April 19, 2004, the Auditor General's office concluded their follow-up work on the Department's efforts to implement the given recommendations. ADRE's audit was completed successfully and the Department is in compliance with all audit recommendations. ☐

**James Hubbard (Tucson)**

File No. 04F-049-REL, Order 2/4/2004

The Department denied Hubbard's application for real estate salesperson's license based on his 2003 misdemeanor conviction for DUI, 1988 felony conviction for Wrongful Use of Cocaine, confinement, reduction in grade and bad conduct discharge from the Air Force, in violation of the statutory provisions of A.R.S. § 32-2153. After a hearing before an administrative law judge, his application for license is denied. The Commissioner denied Hubbard's request for rehearing or reconsideration on 3/23/2004.

**Justin M. Smith (Chandler)**

File No. 04F-061-REL, Order 2/27/2004

The Department denied Smith's application for real estate salesperson's license based on his criminal record, including a 2002 felony conviction, violation of state laws involving violence against another person, and insufficient showing of honesty, truthfulness and good character. After a hearing before an administrative law judge, his application for license is denied.



hours of continuing education classes in addition to the classes required for license renewal. Respondents shall reimburse the Department its costs and expenses to audit the brokerage up to two times per year for two years, and shall engage a CPA to monitor its financial activities for two years.

**SETTLEMENTS BY CONSENT ORDERS**  
Disciplinary Actions

**Jacob Crites and Jake's Old West Properties, Inc., an Arizona corporation (Prescott)**

File No. 03A-012, Consent Order 4/14/2004

According to a complaint filed with the Department, a salesperson previously employed by Jake's Old West Properties showed prospective purchasers a lot in the Ashfork area, prepared a purchase contract and the transaction closed, all without anyone discovering that the listed property which was sold was not the property the purchasers had seen. Crites did not review listing and purchase agreements or similar instruments within 5 days of the date of execution, indicated by the placing of his initials and the date of review on the instrument on the same page as the parties' signatures, and authorized or permitted a salesperson to perform that duty on his behalf, in violation of statutory provisions, including A.R.S. § 32-2151.01(G) and 32-2153(A)(3). Crites's real estate broker's license is suspended for 15 days, he is assessed a civil penalty of \$3,000, and shall attend 15

**Second Home Park Model Sales dba Blue Diamond Home & RV (Lakeside)**

File No. 04F-065-REL, Consent Order 3/4/2004

Blue Diamond acquired 32 lots in The Woodlands, an unimproved lot subdivision (one in which the lots are without a residential, commercial or industrial building and for which the subdivider has not contracted with the purchase to construct a building on the lot within 2 years) from the prior developer. Prior to applying for public report or exemption, Blue Diamond began marketing lot and manufactured home combinations (a lot could only be purchased in conjunction with the purchase of a manufactured home) and sold one lot. The developer may have provided the purchaser and prospective purchasers with a copy of the prior developer's public report (which was not valid for Blue Diamond and its offering), but did not take a receipt for it. Blue Diamond's conduct was in violation of statutory provisions including A.R.S. § 32-2181(A), 32-2183(F), A.C. R4-28-803 and R4-28-805. Respondent is assessed a civil penalty of \$3,000, shall offer rescission

## *Administrative Actions (continued...)*

to the buyer, it's application for public report is approved, and the developer shall attend a 3-hour class on subdivision law.

### **David B. Sygall; Direct Connection Marketing, Inc.; and Douglas Ball, aka W. Douglas Ball, individually and as Trustee for Direct Connection Defined Benefit Pension Plan (Tucson)**

File No. 01A-151, Consent Order 3/31/04

Sygall purchased subject property in Pima County adjacent to land owned by the Tohono O'Odham Nation and with Ball and others acted in concert by using a series of owners or conveyances or other methods to create a subdivision in violation of § 32-2181(D). Their conduct resulted in the sale of subdivided land without first notifying the Commissioner of their intent and obtaining a public report or exemption from the public report requirements, and without providing prospective purchasers with a public report, in violation of A.R.S. § 32-2181(A), 32-2183(A)(and (F)). They engaged in a common promotional plan under §32-2101(14). Respondents agreed to cease and desist their sales or offers of subdivision lots except as provided within the Consent Order until they have demonstrated compliance with applicable laws and rules; Ball and Sygall: are each assessed a civil penalty of \$5000; shall jointly pay \$10,000 for zoning fines; shall meet Pima County requirements for the subject property and are financially responsible for doing so; and shall submit application for public report within 360 days of the Consent Order or within 60 days after final subdivision approval by Pima County, whichever occurs first.

### Appealable Agency Actions

### **Benjamin M. Bethel (Phoenix)**

File No. 04F-067-REL, Consent Order 2/26/2004

The Department denied Bethel's application for real estate salesperson's license under A.R.S. § 32-2153(B) (2) based on his two 1996 drug-related felony convictions. Bethel appealed the denial and is granted a provisional license subject to specified terms and conditions.

### **Jayson Adam Meyerovitz (Tucson)**

File No. 04F-073-REL, Consent Order 4/6/04

The Department denied Meyerovitz's application for real estate salesperson's license under A.R.S. § 32-2153 (B) (2) for his felony conviction for Criminal Simulation. Meyerovitz appealed the denial and is granted a provisional license subject to specified terms and conditions.

### **Richard Newbill (Hereford)**

File No. 04F-092-REL, Consent Order 3/18/2004

The Department denied Newbill's application for real estate salesperson's license under A.R.S. § 32-2153 (B) (7) based on disciplinary action taken against his professional/occupational license issued by the Arizona Structural Pest Control Commission. Newbill appealed the denial and is granted a provisional license subject to specified terms and conditions.

### **Dallas Tanner (Mesa)**

File No. 04F-081-REL, Consent Order 3/16/2004

The Department denied Tanner's application for real estate salesperson's license under A.R.S. § 32-2153 (B) (2) based on his 1998 misdemeanor conviction for Retail Theft. Tanner appealed the denial and is granted a provisional license subject to specified terms and conditions. ☐



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